



North Carolina Department of Health and Human Services  
Division of Health Service Regulation

Pat McCrory  
Governor

Richard O. Brajer  
Secretary DHHS

Mark Payne, Director  
Health Service Regulation

October 21, 2016

Ruth A. Levy  
301 Fayetteville Street, Suite 1700  
Raleigh, NC 27601

**Exempt from Review – Acquisition of Facility**

**Record #:** 2084  
**Facility Name:** Winchester House  
**Type of Facility:** Adult Care Home  
**FID #:** 140293  
**Acquisition by:** Hendersonville Holdco, LLC (partial ownership interest)  
**County:** Henderson

Dear Ms. Levy:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) determined that based on your letter of October 12, 2016, the above referenced proposal is exempt from certificate of need review in accordance with G.S. 131E-184(a)(8). Therefore, Canton Propco Holdings, LLC may proceed to acquire the ownership interest currently held by Hendersonco, LLC in the above referenced health service facility without first obtaining a certificate of need. However, you need to contact the Agency's Adult Care Licensure Section to obtain instructions for changing ownership of the existing facility. Note that pursuant to G.S. 131E-181(b): *"A recipient of a certificate of need, or any person who may subsequently acquire, in any manner whatsoever permitted by law, the service for which that certificate of need was issued, is required to materially comply with the representations made in its application for that certificate of need."*

It should be noted that this Agency's position is based solely on the facts represented by you and that any change in facts as represented would require further consideration by this Agency and a separate determination. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Julie Halatek  
Project Analyst

Martha J. Frisone  
Assistant Chief, Certificate of Need

cc: Adult Care Licensure Section, DHSR  
Paige Bennett, Assistant Chief, Healthcare Planning, DHSR



**Healthcare Planning and Certificate of Need Section**

www.ncdhhs.gov

Telephone: 919-855-3873 • Fax: 919-715-4413

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

An Equal Opportunity/ Affirmative Action Employer



# WILLIAMS MULLEN

Direct Dial: 919.981.4029  
rlevy@williamsmullen.com

October 12, 2016



## VIA HAND DELIVERY

Martha Frisone, Assistant Chief  
Certificate of Need Section  
Department of Health Service Regulation  
N.C. Dept. of Health and Human Services  
809 Ruggles Drive  
Raleigh, NC 27603

Re: Exemption Request – Acquisition of Ownership Interest in Winchester House  
Facility I.D. No. 140293

Dear Ms. Frisone,

We are writing pursuant to N.C. Gen. Stat. § 131E-184(a)(8) on behalf of Hendersonco, LLC (“Hendersonco”), a wholly-owned subsidiary of DCR Real Estate VI Sub II, LLC and Hendersonville Holdco, LLC (“Hendersonville”), a wholly-owned subsidiary of Hendersonville AL Holdings, LLC (“Hendersonville AL Holdings”). Winchester House (Facility I.D. No. 140293) is currently owned jointly by Hendersonco and Hendersonville AL Holdings. We are writing to provide the Agency with notice of Hendersonville’s acquisition of Hendersonco’s ownership interest in the above-referenced existing adult care home. Upon the Agency’s approval, Winchester House will be owned by Hendersonville AL Holdings and its subsidiary, Hendersonville.

The project currently consists of 25 adult care home beds from Nana’s Assisted Living located in Buncombe County and 40 adult care home beds that were issued as a replacement for two separate adult care homes facilities in Henderson County (the former Winchester House 1 & 2). The project originally included an additional set of 15 adult care home beds from Country Meadows Rest Home located in Henderson County for a total of 80 beds; however, the acquisition of these beds did not occur. The Agency was made aware of this caveat and on March 31, 2016, approved the project’s development without the beds from Country Meadows Rest Home. A copy of the Agency’s approval letter is included behind Tab A. A copy of the Certificate of Need issued to Hendersonco and Hendersonville AL Holdings for the combined project (Project I.D. No. B-11047-15) is included behind Tab B.

Each replacement and relocation of the project has been approved by the Agency. The acquisition described herein does not constitute a new institutional health service as defined in N.C. Gen. Stat. § 131E-176(16), and therefore does not require a Certificate of Need. The acquisition does not result in the development or establishment of a health service facility under subsection 131E-176(16)(a), nor does the acquisition result in a change in bed capacity under

# WILLIAMS MULLEN

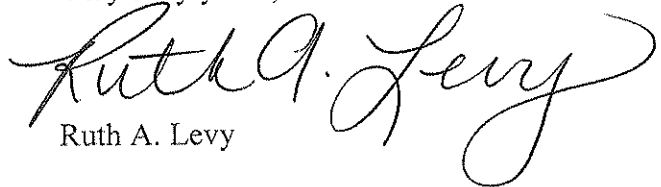
Page 2

subsection 131E-176(16)(c). The acquisition also does not fall under any other category of new institutional health service.

Further, even if the acquisition of Hendersonco's ownership interest in the project by Hendersonville constituted a new institutional health service, the acquisition would be exempt from CON review under N.C. Gen. Stat. § 131E-184(a)(8) because it constitutes the acquisition of an existing health service facility for which a CON has been issued. Therefore, pursuant to N.C. Gen. Stat. §§ 131E-178(a) and 131E-184(a), no Certificate of Need is required for Hendersonville's acquisition of ownership interest in the project.

We would appreciate it if the Agency would confirm that the acquisition of the project is not subject to CON review. Thank you for your consideration, and we look forward to the Agency's response.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ruth A. Levy". The signature is fluid and cursive, with the first name "Ruth" and last name "Levy" clearly legible.

Ruth A. Levy

cc: Lemuel D. Whitsett, V  
John W. Savage  
Charles E. Trefzger

# Tab A



APR 07 2016

North Carolina Department of Health and Human Services  
Division of Health Service Regulation

Pat McCrory  
Governor

Richard O. Brajer  
Secretary DHHS

Mark Payne  
Assistant Secretary for Audit and  
Health Service Regulation

March 31, 2016

Chuck White  
PO Box 2568  
Hickory, NC 28603

**Material Compliance Approval**

Project ID #: B-11047-15  
Facility: Winchester House  
Project Description: Relocate 15 adult care home beds from Country Meadow Rest Home (Henderson County) and 25 adult care home beds from Nana's Assisted Living (Buncombe County) to the previously approved Winchester House for a total of 80 adult care home beds upon completion of this project and Project I.D. #B-10312-14  
County: Henderson  
FID #: 140293

Dear Mr. White:

The Healthcare Planning and Certificate of Need Section, Division of Health Service Regulation (Agency) has determined that the change proposed in your letter of March 23, 2016 is in material compliance with representations made in the application. These changes include not relocating the 15 adult care home beds from Country Meadow Rest Home in Henderson County. Thus, upon project completion, the replacement facility will be licensed for only 65 adult care home beds, not 80 as originally approved. However, you should contact the Agency's Construction Section to determine if they have any requirements pertinent to the proposed change.

It should be noted that the Agency's position is based solely on the facts represented by you and that any change in facts as represented would require further consideration by this office and a separate determination.



Healthcare Planning and Certificate of Need Section

www.ncdhhs.gov

Telephone: 919-855-3873 • Fax: 919-715-4413

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

An Equal Opportunity/ Affirmative Action Employer



Chuck White  
March 31, 2016  
Page 2

If you have any questions concerning this matter, please feel free to contact this office. Please refer to the Project ID # and Facility ID # (FID) in all correspondence.

Sincerely,



Julie Halatek  
Project Analyst



Martha J. Frisone,  
Assistant Chief, Certificate of Need

cc: Construction Section, DHR  
Adult Care Licensure Section, DHR  
Kelli Fisk, Program Assistant, Healthcare Planning, DHR

Tab B

**STATE OF NORTH CAROLINA**  
*Department of Health and Human Services*  
*Division of Health Service Regulation*

**CERTIFICATE OF NEED**

for

Project ID #B-11047-15

FID #140293

**ISSUED TO:** Hendersonco, LLC, Hendersonville AL Holdings, LLC  
P.O. Box 2568  
Hickory, NC 28603

Pursuant to G.S. 131E-175, the North Carolina Department of Health and Human Services hereby authorizes the person or persons named above (the "certificate holder") to develop the certificate of need project identified above. The certificate holder shall develop the project in a manner consistent with the representations in the project application and with the conditions contained herein and shall make good faith efforts to meet the timetable contained herein, as documented by the periodic progress reports required by 10A NCAC 14C .0209. The certificate holder shall not exceed the maximum capital expenditure amount specified herein during the development of this project, except as provided by G.S. 131E-176(16)e. The certificate holder shall not transfer or assign this certificate to any other person except as provided in G.S. 131E-189(c). This certificate is valid only for the scope, physical location, and person(s) described herein. The Department may withdraw this certificate pursuant to G.S. 131E-189 for any of the reasons provided in that law.

**SCOPE:** Relocate no more than 15 adult care home beds from Country Meadows Rest Home (Henderson County) and no more than 25 adult care home beds from Nana's Assisted Living (Buncombe County) to the previously approved Winchester House for a total of no more than 80 adult care home beds upon completion of this project and Project I.D. #B-10312-14/ Henderson County

**CONDITIONS:** See Reverse Side


**PHYSICAL LOCATION:** Winchester House  
4145 Haywood Road  
Mills River, NC 28759

**MAXIMUM CAPITAL EXPENDITURE:** \$3,025,240

**TIMETABLE:** See Reverse Side

**FIRST PROGRESS REPORT DUE:** April 1, 2016

This certificate is effective as of the 29<sup>th</sup> day of December, 2015

  
Shelley Carraway, Chief



CONDITIONS:

1. Hendersonco, LLC and Henderson AL Holdings, LLC shall materially comply with all representations made in the certificate of need application and supplemental information received October 8, 2015, November 10, 2015, and November 23, 2015. In those instances where representations conflict, Hendersonco, LLC and Henderson AL Holdings, LLC shall materially comply with the last made representation.
2. Hendersonco, LLC and Henderson AL Holdings, LLC shall add no more than 40 adult care home beds for a total of no more than 80 adult care home beds upon project completion and completion of Project I.D. #B-10312-14, by relocating 15 adult care home beds from Country Meadow Rest Home and 25 from Nana's Assisted Living.
3. Hendersonco, LLC and Henderson AL Holdings, LLC shall provide care to recipients of State/County Special Assistance with Medicaid, commensurate with representations made in the application.
4. For the first two years of operation following completion of the project, Hendersonco, LLC and Henderson AL Holdings, LLC shall not increase actual private pay charges more than 5% of the projected private pay charges provided in Section X of the application without first obtaining a determination from the Healthcare Planning and Certificate of Need Section that the proposed increase is in material compliance with the representations in the certificate of need application.
5. Hendersonco, LLC and Henderson AL Holdings, LLC shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Healthcare Planning and Certificate of Need Section in writing prior to issuance of the certificate of need.

A letter acknowledging acceptance of and agreeing to comply with all conditions stated in the conditional approval letter was received by the Agency on December 17, 2015.

TIMETABLE:

Acquisition of Land/Facility	December 18, 2015
Final Drawings and Specifications Submitted to the Construction Section, DHR	January 15, 2016
Construction Contract Executed	February 6, 2016
25% Completion of Construction	April 29, 2016
50% Completion of Construction	May 27, 2016
75% Completion of Construction	July 1, 2016
Completion of Construction	August 31, 2016
Occupancy/Offering of Services	October 1, 2016
Licensure/Certification	October 1, 2016